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Attorneys for Plaintiff Jeremy Gordon

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

JEREMY GORDON, AN INDIVIDUAL; Case No.: 3:15-cv-01423-WHA

Plaintiff,

vs.

MODEL N, INC. , A DELAWARE  
CORPORATION;

Defendant.

**DECLARATION OF MICHAEL  
TRACY IN SUPPORT MOTION FOR  
ATTORNEY'S FEES**

Hearing Date: August 4, 2016 8:00a.m.  
Judge: Hon. Hon. William Aslup  
Depart: 8-19th Floor

Date Filed: March 27, 2015  
Trial Date: NONE

I, MICHAEL L. TRACY, declare as follows:

1. I am an attorney duly authorized to practice law in the State of California and am the attorneys for Plaintiff JEREMY GORDON in this matter. If asked to, I could and would competently testify to the following of my own personal knowledge:
2. I am an attorney licensed to practice in all courts in the State of California and have been an active member of the California State Bar since September 27, 2005. I received my law degree from Concord Law School. I am a member of the bars of all four California District Courts, the Trial Bar of the Northern

1 District of Illinois, United States Court of Appeals for Veterans Claims, the  
2 Fifth Circuit, Ninth Circuit, and the United States Supreme Court.

3 3. I attended undergraduate school for two years at the United States Military  
4 Academy at West Point. The remainder of my undergraduate education was at  
5 the University of California at Riverside, where I received a Bachelor of  
6 Science in Applied Mathematics. During my military career, I achieved the  
7 rank of Specialist (E-4), completed Advanced Infantry and Airborne training,  
8 and qualified as an Expert on both the M-16 Rifle and M-60 Machine Gun.

9 4. I am the author of several publications relating to computer programming,  
10 including:

11 a. Michael Tracy, Professional Visual C++ ISAPI Programming, Wrox  
12 Press (December 1996)

13 b. Michael Tracy, Scott Ware, and Louis Slothouber, Professional Web  
14 Site Optimization, Wrox Press (February 1997)

15 c. Christian Gross and Michael Tracy, Professional NT Internet  
16 Information Server 2 Administration, Peer Information Inc.; 1st edition  
17 (January 15, 1996)

18 5. Prior to becoming an attorney, I worked in various technology roles including  
19 helpdesk, computer programmer, database administrator, and project manager.  
20 All of this experience totals more than 10 years in various computer, network,  
21 and technology roles.

22 6. On May 23, 2013, I summited Mt. Everest via the north-east ridge, standard  
23 route in Tibet.

24 7. Although my firm primarily works on a contingency basis, I also take work on  
25 an hourly basis. My firm's rates are \$425/hr for attorney work and \$150/hr for  
26 paralegal work. These rates are typical of what other attorneys with my  
27 experience charge for work in wage and hour cases in California. This is the  
28 rate I currently charge paying customers.

- 1 8. I have presented at several seminars and engagements, including the 2007  
2 Employers Group Annual Workplace and Employment Law Update, where I  
3 presented on what factors make companies targets for plaintiff's attorneys.  
4 From June 2007 through November 2007, I was the host of Labor Law Radio,  
5 AM960, a weekly radio show presenting labor and employment issues from  
6 the plaintiff's perspective.
- 7 9. I was lead class counsel in *Mendez v. Tween Brands, Inc.*, 2010 U.S. Dist.  
8 LEXIS 66454 (E.D. Cal. June 30, 2010), a class action case concerning denial  
9 of overtime compensation, remuneration in the form of non-monetary items,  
10 as well as missed meal and rest periods. (The published citation deals with the  
11 private attorney general aspects of the case). I was also appointed class  
12 counsel in the following matters: opposed class certification motion in the  
13 matter of *Adoma, et al. v. University of Phoenix, Inc.*, USDC, Eastern District  
14 of California case number 2:10-cv-00059-LKK-GGH, *Hibbs-Rines v. Seagate*  
15 *Technology, LLC*, USDC, Northern District of California case number CV08-  
16 05430; *Ganz v. da Vinci Dental*, Los Angeles Superior court case number BC  
17 378089; *Murillo v. Pacific Gas & Electric Company*, USDC Eastern District  
18 of California, CIV. 2:08-1974; *Sibert v. TV MAGIC, INC.*, USDC Central  
19 District of California, CV12-3404-DDP-MRWx; *Chiu v. Citrix Systems, Inc.*,  
20 USDC Central District of California, SACV11-01121-DOC-RNBx.
- 21 10. My firm was appointed co-counsel for the class in *Castaneda v. Universal*  
22 *Music Group*, Los Angeles Superior court case number BC374253, as well as  
23 *Graham v. DST Output of California, Inc.*, El Dorado Superior Court case  
24 number PC20080109, and *Muir, et al v. DST Output of California, Inc.*, El  
25 Dorado Superior Court case number PC20080164, *Gudino v. McGrath*  
26 *Rentcorp.* Alameda Superior Court Case number VG09446874, *Gomez v.*  
27 *Adriana's Insurance Service Inc.*, San Bernardino Superior Court Case number  
28 CIVRS 806612, *Cortez II v. KAR Construction*, San Bernardino Superior

Court Case number CIVRS1110005, and *Chan v. Paypal, Inc.*, Santa Clara Superior Court Case number 1-10-CV-168947.

11. My firm is counsel or co-counsel on numerous additional pending class actions.

12. I served as lead trial counsel in the jury trial of the matter of *Trower et al. v. MDI, Inc.*, Central District of California, *McCraw v. That's No Bull, Inc.*, El Dorado Superior Court Case number PC20060606, and *Miller v. Schilling, PC*, Orange County Superior Court case number 30-2009-00116920, *Barnes v. California Natural Products*, San Joaquin Superior Court case number CV034830, *Zaitzeff v. Peregrine Financial Group, Inc.* Northern Illinois District Court case number 1:08-cv-04053, *Arvizu v. Matison & Margolese ALC*, USDC, Central District of California case number CV 10-01643 SVW(JCx), *Harari v. Entertainment Media Specialists, Inc.*, Los Angeles Superior Court case number 12K12098, *Gerleve v. Gachupin Enterprises LLC*, USDC, Central District of California case no. SACV13-01549-JCG, and *Riley v. Green Technologies, Inc.*, USDC, Central District of California case no. 2:14-cv-04001-CBM-PJW.

13. In the case of *Studio Transportation Drivers, etc. v. Happy Hours Productions, LLC*, et al., SACV08-01117-JVS (ANx), in the Central District of California, Judge Selna awarded my firm \$300/hr in a wage and hour case. In this case, I represented one of the Defendants and the \$300/hr was the rate billed to my client. On appeal, the Ninth Circuit also awarded attorney's fees at \$300/hr. Since 2011 this client pays at an hourly rate of \$425/hr. I currently have a case pending with this client at the \$425 rate.

14. In the case of *Murillo v. Pacific Gas & Electric*, Case No. 2:08-01974, Eastern District of California, my firm was awarded attorney's fees based on a lodestar amount of \$300/hr. In the case of *Brandao v. Kelpe* Superior Court of Orange County, Case No. 30-2008-00223837, my firm was awarded attorney's fees

1 based on a lodestar amount of \$300/hr. In the case of *Graham v. DST Output*  
2 *West, LLC*, Superior Court of El Dorado County, Case No. PC20080109, my  
3 firm was awarded attorney's fees based on a lodestar amount of \$300/hr. In the  
4 case of *Hibbs-Rines v. EVault, Inc.*, United States District Court for the  
5 Northern District of California, Case No. CV08-05430-SI, my firm was  
6 awarded attorney's fees based on a lodestar amount of \$300/hr. In the case of  
7 *Khan v. Flextronics*, United States District Court for the Northern District of  
8 California, Case No.5:09-cv-05155-JF, my firm was awarded attorney's fees  
9 based on a lodestar amount of \$300/hr.

10 15.In the case of *Chan v. Paypal, Inc.*, 1-10-CV-168947, Judge James P.  
11 Kleinberg in the Santa Clara Superior Court, awarded my firm \$425/hr for  
12 attorney's fees in a class action wage and hour case in 2012.

13 16.In the case of Cortez, et al. v. K.A.R. Construction, Inc., Judge Gilbert G.  
14 Ochoa of the San Bernardino Superior Court awarded my firm \$425/hr for  
15 attorney's fees and \$125/hr for paralegal fees in a class action wage and hour  
16 case in 2012.

17 17.In the case of *Trower et al. v. MDI, Inc.*, EDCV 07-01585 ABC(PJWx), Judge  
18 Larson in the Central District of California, awarded my firm \$450/hr for  
19 attorney's fees in an two plaintiff wage and hour case.

20 18.In the case of *Whynaught, et al. v. Grasshopper House, LLC*, Case No.:  
21 BC452655, Judge Steven J. Kleifield of the Los Angeles Superior Court,  
22 awarded my firm \$450/hr for attorney's fees and \$125/hr for paralegal fees in  
23 a class action wage and hour case in 2012.

24 19.Virginia Tomlinson is a paralegal at my firm. She has been working as  
25 paralegal since 2007, and holds an ABA approved Paralegal Certificate. She  
26 has assisted my firm with hundreds of individual and class wage and hour  
27 actions. In the case of Cortez, et al. v. K.A.R. Construction, Inc., Judge  
28 Gilbert G. Ochoa of the San Bernardino Superior Court awarded her \$125/hr

for paralegal fees in a class action wage and hour case in 2012. In the class action *Gudino v. McGrath*, Superior Court of Alameda, the Judge awarded her fees at the rate of \$125 per hour in 2011. In July 2012 in the class action wage and hour case *Whynaught, et al. v. Grasshopper House, LLC*, Judge Steven J. Kleifield of the Los Angeles Superior Court awarded her fees at the rate of \$125 per hour. Currently her billing rate that our paying customers pay is \$150 per hour.

20. LOCAL RULE 54-5(b)(1): I met and conferred with Megan Ottoboni, counsel for Defendant on June 16, 2016 for the purposes of resolving any disputes regarding the instant motion. Other than some questions about redactions made to attorney-client billing records, there were no disputes between the parties regarding the billing records.

21. LOCAL RULE 54-5(b)(2): Attached as Exhibit A is a listing of the services provided by each person in this case. The column for "Staff" lists the initial of the person performing the work. "MLT" is for Michael Tracy, an attorney. "VT" is for Virginia Tomlinson, a paralegal. The total for Michael Tracy is \$38,377.50. The total for Virginia Tomlinson is \$1,503.00.

22. The "Bill Code" column is for the general nature of the work. The "DISCO" means that the item related to discovery, "CORR" is for correspondence between counsel, "CLIENT" is for client communications, "ADMIN" is for administrative filings, "DEPO" is for depositions, "EVIDENCE" is for reviewing evidence, "MSJ" is for time spent on dispositive motions.

23. The time records were maintained in a contemporaneous time tracking system known as "Time Matters." In addition, time spent on Word documents and emails were automatically tracked by internal timers that recorded the amount of time spent working on the document. The document tracking system would produce a report of the time spent working on documents and this information was imported into the "Time Matters" time recording system. Time entries are

1 rounded to the nearest 1/10 of an hour, unless they are automatically recorded  
2 by the document tracking system, in which case they are rounded to 1/100 of  
3 an hour.

4 24.LOCAL RULE 54-5(b)(3). See above for qualifications of counsel. The  
5 customary hourly rate is \$425/hour for Michael Tracy and \$150/hour for  
6 Virginia Tomlinson.

7 25.The requested attorney's fees award is \$38,880.50. Of this, \$38,377.50 is for  
8 Michael Tracy and \$1,503.00 is for Virginia Tomlinson.

9 26.Attached hereto as Exhibit A is a copy of Plaintiff's counsel itemized billing  
10 records.

11 27.Attached hereto as Exhibit B is a copy of the 2016, "Laffey Matrix."

12  
13 I declare under the laws of the United States of America the State of California that  
14 the forgoing is true and correct.

15 Executed: June 24, 2016 at Irvine,  
16 California

17 /s/ Michael Tracy  
18 By: \_\_\_\_\_  
19 MICHAEL TRACY  
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